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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,999	08/27/2003	Mark Stuart Day	CIS03-35(7193)	4356
7590 12/12/2005			EXAMINER	
Barry W. Chapin, Esq. CHAPIN & HUANG, L.L.C. Westborough Office Park 1700 West Park Drive Westborough, MA 01581			LIN, KENNY S	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 12/12/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/648,999	<b>Applicant(s)</b> DAY, MARK STUART	
	<b>Examiner</b> Kenny Lin	<b>Art Unit</b> 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/27/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-28 are presented for examination.

#### ***Information Disclosure Statement***

2. The information disclosure statement filed 10/12/2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following terms lack proper antecedence basis:

- i. Claims 1, 3-5, 7-8, 10-12, 14-18, 20-24, 26-28 - presence information;
- ii. Claims 8 and 22 – controller.

#### ***Claim Rejections - 35 USC § 102***

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3, 8, 10, 15-17, 20, 22, 24 and 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Rose, US 2002/0147929.

7. As per claims 1, 8 and 15-16, Rose taught the invention as claimed including a computerized device comprising:

- a. At least one communication interface (client 22; pp.0025);
- b. A controller (content server 24; pp. 0025-0026); and
- c. An interconnection mechanism coupling the at least one communications interface and the controller (pp. 0026, 0028);
- d. Wherein controller is configured to:
  - i. Receive, from the content subscriber, a subscription request for presence information (pp.0015, 0033, 0035, 0040-0041, claim 1);
  - ii. Insert an address within a notification message in response to receiving the subscription request, the address relating to presence information transmitted using a one-to-many transmission channel (pp. 0015, 0028, 0035-0036, 0040-0044, claim 1); and

- iii. Transmit the notification message to the content subscriber, the address of the notification message allowing the content subscriber to subscribe to the presence information using the one-to-many transmission channel (pp. 0015, 0028, 0036, 0041-0044, 0051, claim 1).

8. As per claims 17, 22 and 27-28, Rose taught the invention as claimed including a content subscriber comprising:

- a. At least one communications interface (client 22; pp.0025);
- b. A controller (content server 24; pp. 0025-0026); and
- c. An interconnection mechanism coupling the at least one communications interface and the controller (pp. 0026, 0028);
- d. Wherein controller is configured to:
  - i. Transmit, via the at least one communications interface, a first subscription request for presence information to a computerized device (pp.0015, 0033, 0035, 0040-0041, claim 1);
  - ii. Receive, via the at least one communications interface, in response to transmitting the subscription request, a notification message from the computerized device, the notification message having an address relating to presence information transmitted using a one-to-many transmission channel (pp. 0015, 0028, 0035-0036, 0040-0044, claim 1); and

- iii. Transmit, via the at least one communications interface, a second subscription request for presence information using the one-to-many transmission channel (pp. 0015, 0028, 0036, 0041-0044, 0051, claim 1).

9. As per claims 3 and 10, Rose taught the invention as claimed in claims 1 and 8. Rose further taught the step of inserting comprises inserting a plurality of address within the notification message, each of the plurality of addresses relating to presence information transmitted using a corresponding one-to-many transmission channel (fig.2; pp. 0040-0044).

10. As per claims 20 and 24, Rose taught the invention as claimed in claims 17 and 22. Rose further taught the step of receiving comprises receiving a notification message from the computerized device, the notification message having a plurality of addresses, each of the plurality of addresses relating to presence information transmitted using a corresponding one-to-many transmission channel and further comprising selecting a one-to-many transmission channel for reception of the presence information (fig.2; pp. 0040-0044).

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 2, 9, 18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose, US 2002/0147929, in view of Joyce et al (Joyce), US 6,798,358.

13. As per claims 2 and 9, Rose taught the invention substantially as claimed in claims 1 and 8. Rose further taught the step of inserting further comprises inserting an address identifier within the notification message (pp. 0040-0044). Rose did not specifically teach that the address identifier to indicate the availability of the address within the notification message. Joyce taught to use a flag to indicate the availability of the presence information and the address of the presence information (col.6, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rose and Joyce because Joyce's teaching of using flag to indicate the availability of the address enables Rose's system to inform the subscriber whether the presence information is available.

14. As per claims 18 and 23, Rose taught the invention substantially as claimed in claims 17 and 22. Rose further taught the step of receiving further comprises receiving an address identifier within the notification message (pp. 0040-0044) and:

- a. Examining the address identifier (pp. 0036, 0040-0044);
- b. When identifying the address identifier in response to examining, utilizing the address to transmit the second subscription request for presence information using the one-to-many transmission channel (pp. 0036, 0040-0044, 0051).

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15. Rose did not specifically teach that the address identifier to indicate the availability of the address within the notification message. Joyce taught to use a flag to indicate the availability of the presence information and the address of the presence information (col.6, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rose and Joyce because Joyce's teaching of using flag to indicate the availability of the address enables Rose's system to inform the subscriber whether the presence information is available at the directed address. Furthermore, it would have been obvious to one of ordinary skill in the art to save time and ignore the notification message when there exist an indication indicating that the presences information address inserted in the message is not available.

16. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose, US 2002/0147929, in view of Barbir et al (Barbir), US 2003/0115283.

17. As per claims 4 and 11, Rose taught the invention substantially as claimed in claims 1 and 8. Rose further taught to distribute and redirect subscriber requests according to content server load (pp. 0027), the step of receiving comprises receiving a plurality of subscription requests for presence information from a plurality of content subscribers (pp. 0024-0025, 0027-0028, 0035) and the step of transmitting comprises transmitting the notification message to a portion of the content subscribers, the address of the notification message allowing the portion of the content subscribers to subscribe to the presence information using the one-to-many



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transmission channel (pp. 0015, 0028, 0036, 0041-0044, 0051, claim 1). Rose did not specifically teach in detail to:

- a. Detect a size characteristic of the plurality of content subscribers;
- b. Compare the size characteristic to a threshold condition.

18. Barbir taught to detect a size characteristic of the plurality of content subscribers and compare the size characteristic to a threshold condition in determine the server load (abstract, pp. 0006-0007, 0013-0016, 0031). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rose and Barbir because Barbir's teaching of determining size characteristics of the content subscribers helps Rose's system to determine server loads and efficiently redirect the incoming requests to prevent server overload.

19. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose and Barbir as applied to claims 4 and 11 above, and further in view of Danieli, US 6,510,513.

20. As per claims 5 and 12, Rose and Barbir taught the invention substantially as claimed in claims 4 and 11. Rose further taught to comprise:

- a. transmitting a notification message to a content subscriber subscribed to the presence information using the one-to-many transmission channel, the notification message having a one-to-one address relating to presence information transmitted using a one-to-one transmission channel (pp. 0015, 0028, 0035-0036, 0040-0044, claim 1); and

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- b. receiving a second subscription request from the content subscriber for presence information using the one-to-one transmission channel (pp. 0015, 0033, 0035-0036, 0041-0044, claim 1).

21. Rose did not specifically teach that the notification messages is a nullify notification message. Danieli taught to transmit a nullify notification message to a content subscriber subscribed to the presence information (col.13, lines 9-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rose, Barbir and Danieli because Danieli's teaching of sending nullify notification messages allows Rose and Barbir's system to use messages to inform the subscribers of possible errors in their requests.

22. Claims 6, 13, 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose, US 2002/0147929, in view of Kinnunen et al (Kinnunen), US 6,813,501.

23. As per claims 6 and 13, Rose taught the invention substantially as claimed in claims 1 and 8. Rose further taught to comprise subscribing to the one-to-many transmission channel for reception of the presence information (pp. 0015, 0028, 0036, 0041-0044, 0051, claim 1). Rose did not specifically teach to receive an unsubscribe message from the content subscriber in response to transmitting the notification message, the unsubscribe message indicating unsubscription from a one-to-one transmission channel for reception of the presence information. Kinnunen taught to use unsubscribe message to indicate unsubscription (col.14, lines 23-37). It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rose and Kinnunen because Kinnunen's teaching of using unsubscribing message enables the subscribers of Rose's system to terminate their subscription when they no longer desire the presence information by sending a unsubscribing message and hence manually terminate the communication between the subscribers and the controller.

24. As per claims 19 and 25, Rose taught the invention substantially as claimed in claims 17 and 22. Rose further taught so subscribe to the one-to-many transmission channel for reception of the presence information (pp. 0015, 0028, 0036, 0041-0044, 0051, claim 1). Rose did not specifically teach to transmit an unsubscribe message to the presence server in response to receiving the notification message, the unsubscribe message indicating unsubscription from a one-to-one transmission channel for reception of the presence information. Kinnunen taught to use unsubscribe message to indicate unsubscription (col.14, lines 23-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rose and Kinnunen because Kinnunen's teaching of using unsubscribing message enables the subscribers of Rose's system to terminate their subscription when they no longer desire the presence information by sending a unsubscribing message and hence manually terminate the communication between the subscribers and the controller.

25. Claims 7, 14, 21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose, US 2002/0147929, in view of "Official Notice".

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26. As per claims 7 and 14, Rose taught the invention substantially as claimed in claims 1 and 8. Rose further taught that:

- a. The step of inserting comprises inserting the address within the notification message in response to receiving the subscription request, the address relating to presence information transmitted using a one-to-many transmission channel (pp. 0015, 0028, 0035-0036, 0040-0044, claim 1); and
- b. The step of transmitting comprises transmitting the notification message to the content subscriber, the address of the notification message allowing the content subscriber to subscribe to the presence information using the one-to-many transmission channel (pp. 0015, 0028, 0036, 0041-0044, 0051, claim 1).

27. Rose did not specifically teach that the one-to-many transmission channel is a multicasting channel. However, Official Notice is taken that the concept and advantage of multicasting is a well know as a one-to-many transmission method in the art. It would have been obvious to select a multicasting channel as the one-to-many transmission channel in order to gain the benefit of sending contents simultaneously to more than one requester. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rose and further selects multicast transmission channel as the one-to-many transmission channel to allow Rose's system to transmit presence information simultaneously to more than one subscriber.

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28. As per claims 21 and 26, Rose taught the invention substantially as claimed in claims 17 and 22. Rose further taught that:

- a. The step of receiving comprises receiving, in response to transmitting the subscription request, a notification message from the computerized device, the notification message having an address relating to presence information transmitted using a multicast transmission channel (pp. 0015, 0028, 0035-0036, 0040-0044, claim 1); and
- b. The step of transmitting a second subscription request comprises transmitting the second subscription request for presence information using the multicast transmission channel (pp. 0015, 0028, 0036, 0041-0044, 0051, claim 1).

29. Rose did not specifically teach that the one-to-many transmission channel is a multicasting channel. However, Official Notice is taken that the concept and advantage of multicasting is a well know as a one-to-many transmission method in the art. It would have been obvious to select a multicasting channel as the one-to-many transmission channel in order to gain the benefit of sending contents simultaneously to more than one requester. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Rose and further selects multicast transmission channel as the one-to-many transmission channel to allow Rose's system to transmit presence information simultaneously to more than one subscriber.

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30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brescia, US 2003/0069991.

St. Pierre, US 2004/0019682.

Astarabadi et al, US 6,910,064.

McCanne, US 2005/0010653.

Tudor et al, US 2002/0059574.

31. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (571) 272-3968. The examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksl

November 2, 2005



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